

**FILED**

**MAR 14 2006**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MARIA DE JESUS ROMO OROZCO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-71631

Agency No. A79-537-466

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted March 8, 2006<sup>\*\*</sup>

Before: CANBY, BEEZER and KOZINSKI, Circuit Judges.

Maria de Jesus Romo Orozco, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying her

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review.

We review for abuse of discretion the denial of a motion to reopen. *Ordonez v. INS*, 345 F.3d 777, 782 (9th Cir. 2003). The BIA acted within its broad discretion in denying Romo Orozco's motion to reopen because she failed to present evidence that she was eligible for relief, given that she has no qualifying relative. *See* 8 C.F.R. § 1003.2(a); *Ordonez*, 345 F.3d at 785 (holding that prima facie eligibility is demonstrated by a showing that there is a reasonable likelihood that the statutory requirements for relief have been satisfied). Although the BIA construed her motion as both a motion to reopen and reconsider, Romo Orozco has waived her challenge to the BIA's denial of the motion to reconsider for failure to raise it in her opening brief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996).

We lack jurisdiction to consider Romo Orozco's equal protection challenge to the immigration judge's underlying order denying relief because she failed to raise it in her motion to reopen, and the instant petition for review is not timely as to the BIA's order dismissing her direct appeal. *See id.* at 1258.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**